THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.14002 of 2007

Dated:24.07.2007

Between:

Shaik Janimiya and others.

…Petitioners

and

The Government of Andhra Pradesh, and others.

…Respondents

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.14002 of 2007

ORDER:

Petitioners, who are 72 in number, claim to be the cultivating tenants in respect of small extents of land belonging to the 4th respondent-Temple. It is stated that they have been paying the rents regularly and cultivating the lands, which is their only source of livelihood. While so, the 4th respondent proposed to grant the leasehold rights in respect of the land in their possession by conducting a public auction. Aggrieved by the said action of the respondents, the present Writ Petition is filed.

In the counter-affidavit filed by the 4th respondent, though the plea of the petitioners that they are the tenants has not been denied, it is stated that the petitioners were evicted from the land in question, after issuing notice, dated 04.05.2007, and the public auction is rightly proposed to be conducted for grant of fresh lease.

I have heard the learned counsel for both the parties.

It is relevant to note that the respondents could not place before this Court any material to show that the notice under Rule 5 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules'), was issued to the petitioners, much less there was any determination by the Assistant Commissioner of Endowments as to the claim of the petitioners that they are landless poor.

The petitioners filed an affidavit in reply disputing the version of the respondents and reiterating that they are continuing in possession as on today.

As held by this Court in **Mattaarthi Dharma Rao v. The Asst. Commnr. Of Endowments**[1], the statutory determination as contemplated under Section 82 (1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, becomes operative only after the status of the cultivating tenant, who claims to be a landless poor person, is determined. Since in the case on hand no such determination is made, it is not open to the respondents to put the leasehold rights to auction.

Accordingly, the impugned auction notice is set aside and the Writ Petition is disposed of, leaving it open to the respondents to take appropriate steps following due process of law. No costs.

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(G.ROHINI, J)

Dated:24.07.2007

Note: Furnish C.C. in two days.

(B/o)

GJ

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[1] 2003 (3) A.P.L.J. 1 (HC).